

Staff Report

Agenda Item 6

Adrienne Klein

March 16, 2017

ENFORCEMENT STATISTICS

	FY 2015-2016 (7/1/15 - 6/30/16)	FY 2016-2017 (7/1/16 - 12/31/16)
Total Cases at Beginning of FY	164	212
Opened	68	20
Closed	21	29
Total Cases at End of FY	212	204
Beginning BFCUAF Balance	\$1,423,899.33	\$1,423,999.33
\$ from Standardized Fines	\$100	\$25,560
\$ from Settlement Agreements	\$0	\$32,000
\$ from Commission Orders	\$0	\$410,000
Total Penalties Collected	\$100	\$467,560.00
Ending BFCUAF Balance	\$1,423,999.33	\$1,891,559.33

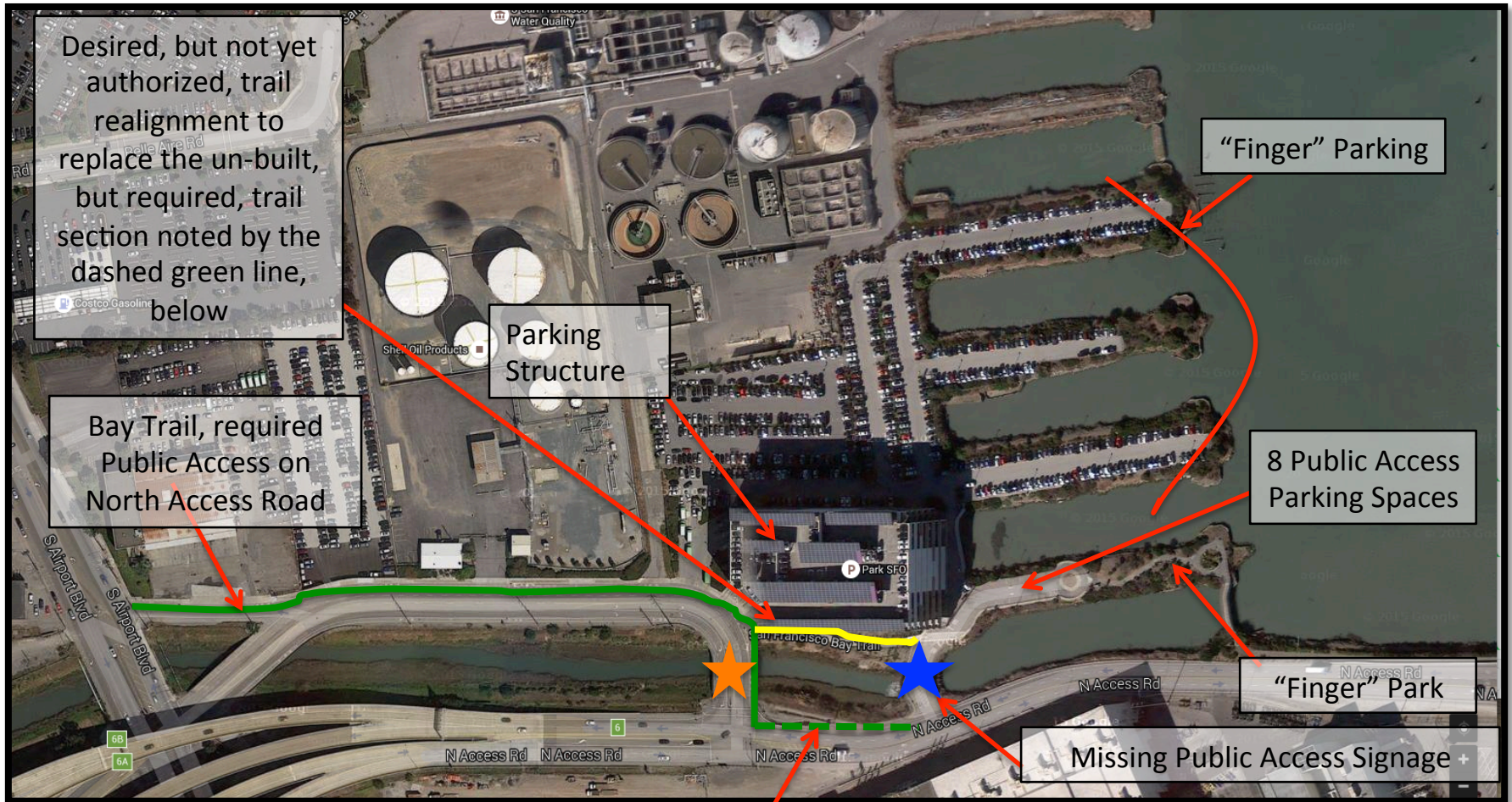
Stipulated Cease and Desist and Civil Penalty Order Compliance

Maggie Weber
Enforcement Analyst



Making San Francisco Bay Better

Park SFO Site Map



The dashed green line indicates a required section of trail that will be replaced once the section of the trail, identified in yellow above, is authorized.

- ★ North Access Road Bridge
- ★ Tide Gate Bridge

Maintained Finger Park



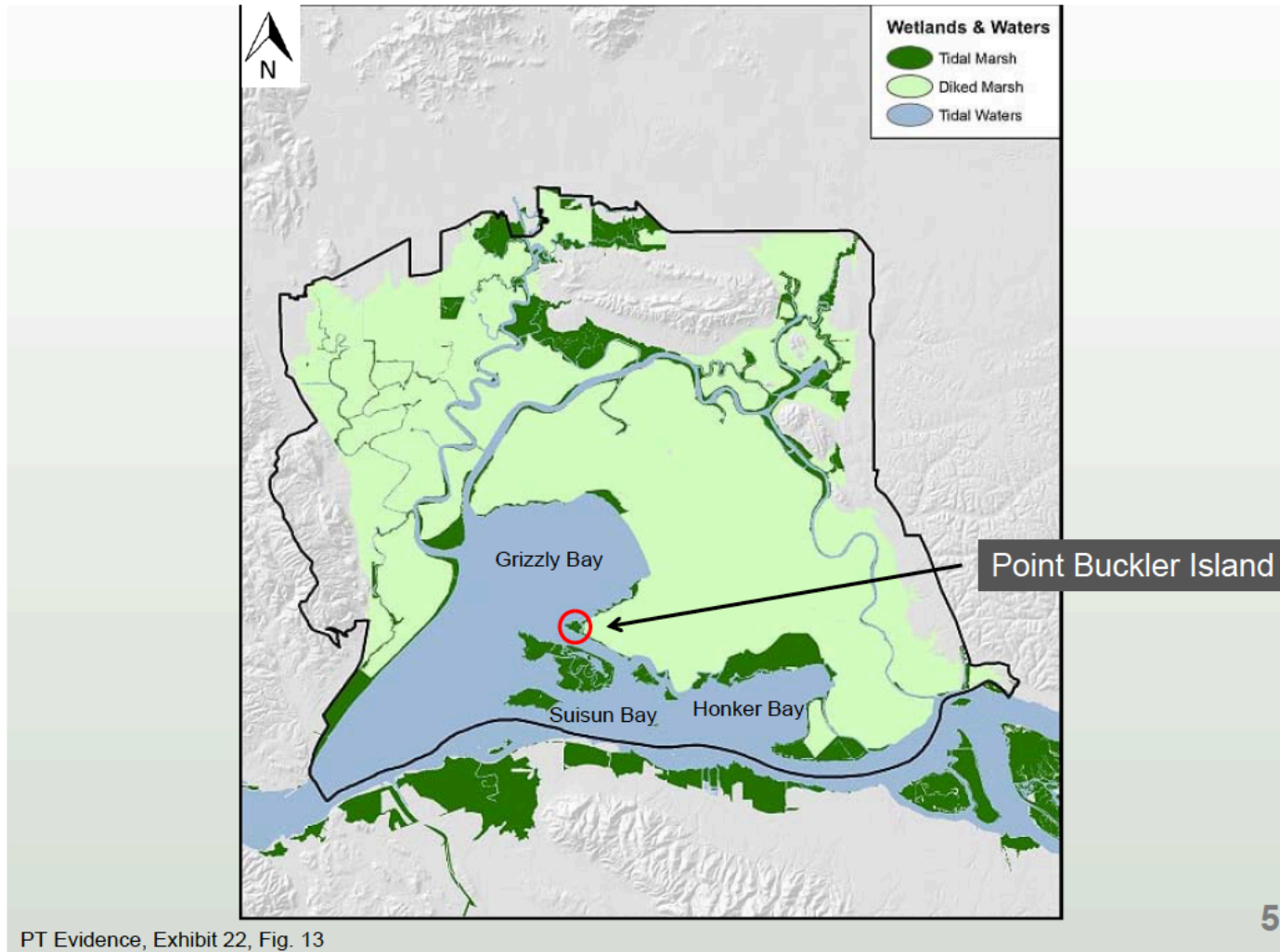
Loch Lomond Marina Site Map



January 2017 King Tides



Point Buckler Club Site Map



Point Buckler Club

2017 Google Earth © Aerial

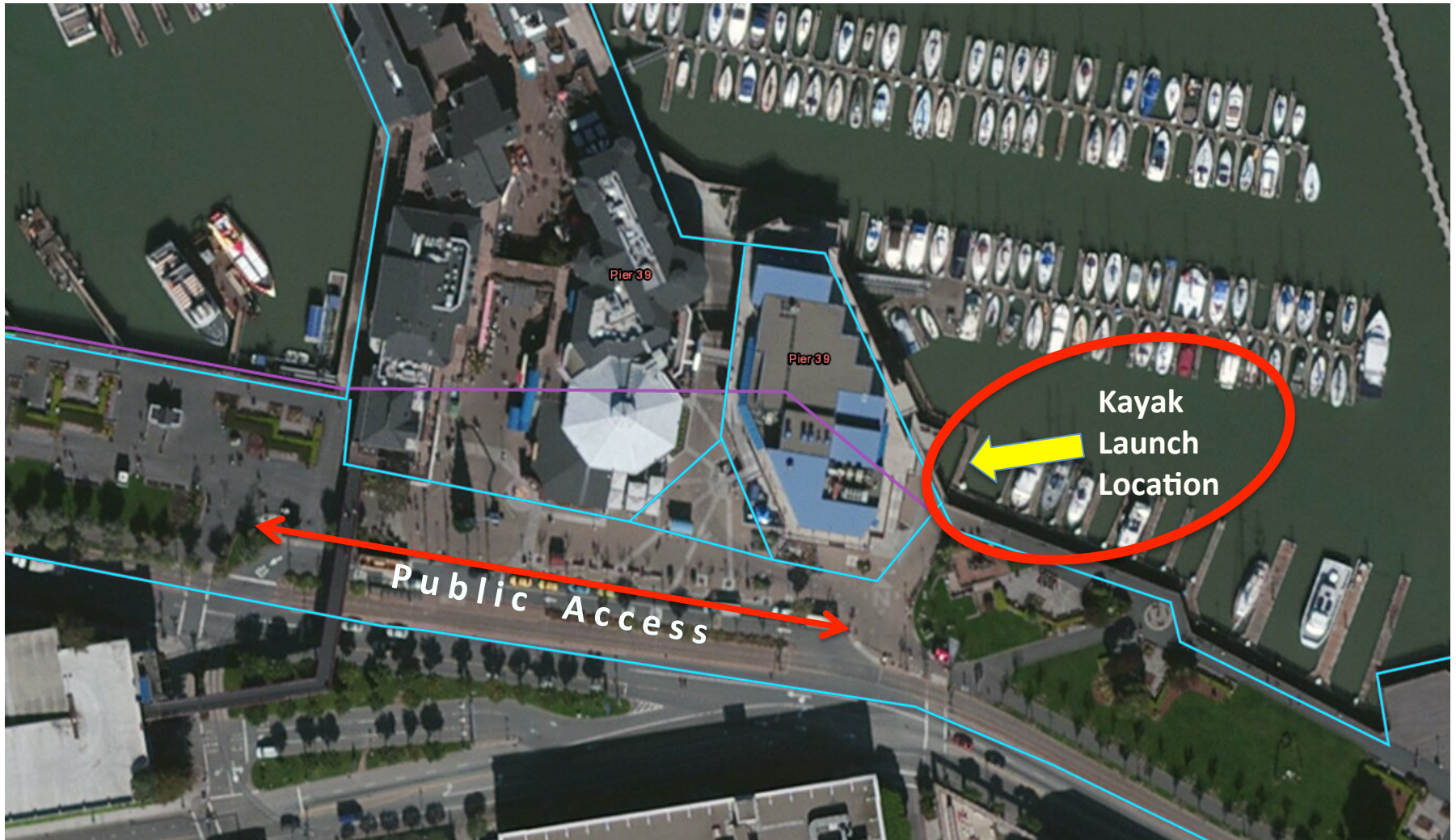


Selected Case Studies from Matthew Trujillo's 2016 Enforcement Caseload

By Matthew Trujillo
BCDC Enforcement Analyst

Case Study #1: Pier 39

- Respondent Name: Pier 39 Limited Partnership & the Port of San Francisco
- Location: Pier 39, City and County of San Francisco
- BCDC Permit No.: 1976.022.49
- BCDC Enforcement File No.: ER2015.055
- Violation: Failure to install a kayak/small watercraft launch and appropriate public access signage by June 1, 2013, as required by their permit.
- Jurisdiction: ✓ Bay and ✓ 100-foot Shoreline Band
- Prioritization Score: 43.3
- Penalty Paid: \$1,000
- Case Duration: 11 months, 16 days (12/08/2015 – 11/23/2016)



Case Summary

- The kayak launch is required by the permit as mitigation to offset the periodic loss of required public access along the Pier 39 waterfront to promotional events “unassociated with civic, cultural, seasonal or Bay-related” purposes.
- The respondent was originally required to complete the project no later than June 1, 2013.
- An enforcement file was opened on December 8, 2015.

Case Summary Cont'd.

- Enforcement was paused for approximately six (6) months from December 2015 through May 2016, because respondent sought and obtained a time extension permit amendment to complete the project by May 31, 2016.
- Enforcement re-commenced on June 1, 2016 when the respondent failed to complete the project by the extended deadline. A 35-day letter was issued June 2, 2016.

Case Summary Cont'd

- Respondent resolved the violation on July 25, 2016, by which time a \$1,000 standardized civil penalty had accrued.
- Respondent appealed the penalty on August 15, 2016. The appeal was denied on November 2, 2016.
- A check for the full amount of the penalty was received on November 23, 2016, fully resolving the case.

The Takeaway

- This case is a good example how a seemingly simple and straightforward enforcement case can actually take a long time to resolve.
- I now strive to accomplish all necessary corrective actions during the enforcement process to ensure that respondents are sufficiently motivated to resolve their violations in a timely fashion.

Case Study #2: Homewood Suites Hotel

- Respondent Name: Oakland Hospitality LLC & the Port of Oakland
- Location: 1103 Embarcadero, Oakland, Alameda County
- BCDC Permit No.: 1999.013.00
- BCDC Enforcement File No.: ER2015.057
- Violation: Failure to maintain required public access parking spaces and signage, and unauthorized fill in the 100-foot Shoreline Band.
- Jurisdiction: ✓ 100-foot Shoreline Band
- Prioritization Score: 33
- Penalty Paid: \$0
- Case Duration: 2 months, 19 days (12/28/2015 – 03/17/2016)



Public Parking/Signs

Public Access Signs

Unapproved Furnishings



Case Summary

- The respondent is required to provide and maintain 10 public parking spaces and 9 public access signs.
- Staff observed that 4 parking spaces and 5 public parking signs had not been maintained.

Case Summary Cont'd.

- The respondent is also required to seek and obtain written approval before making any changes to the exterior areas of the hotel.
- Staff observed that unapproved furnishings had been placed on the hotel patio and pool area.

Case Summary Cont'd.

- The respondent resolved the violations by fixing the maintenance issues with the parking spaces and signs, and by obtaining BCDC staff plan approval for the patio/pool furnishings within thirty-five (35) days of the enforcement letter, thus avoiding the imposition of a standardized civil penalty.

Special Circumstances

- Seasonal wet weather made it impossible for the respondent to paint neat, professional-looking stripes in the public parking spaces with 35 days of the date of the enforcement letter.
- Respondent asked for permission to delay re-painting the stripes due to the fact that the hotel was planning to completely resurface the parking lot the next Fall.
- Staff granted the request, and considered the maintenance violation for the parking spaces to be conditionally resolved, pending the fulfillment of his commitment to resurface the parking lot.

Lessons Learned

- Seasonal wet weather posed an unanticipated challenge to addressing the parking space maintenance violation.
- In the future, it may be a good idea to consider uncontrollable factors, such as seasonal weather, when prescribing corrective actions and deadlines required to resolve a case.

Thank you!

Questions?